

§ 254.16

36 CFR Ch. II (7–1–15 Edition)

to hazardous substances pursuant to § 254.3 of this subpart.

(c) *Title encumbrances*—(1) *Non-Federal lands*. (i) Title to the non-Federal lands must be acceptable to the United States. For example, encumbrances such as taxes, judgment liens, mortgages, and other objections or title defects shall be eliminated, released, or waived in accordance with requirements of the preliminary title opinion of the USDA Office of the General Counsel or the Department of Justice, as appropriate.

(ii) The United States shall not accept lands in which there are reserved or outstanding interests that would interfere with the use and management of the land by the United States or would otherwise be inconsistent with the authority under which, or the purpose for which, the lands are to be acquired. Reserved interests of the non-Federal landowner are subject to the appropriate rules and regulations of the Secretary, except upon special finding by the Chief, Forest Service in the case of States, agencies, or political subdivisions thereof (36 CFR part 251, subpart A).

(iii) Any personal property owned by the non-Federal party which is not a part of the exchange proposal, should be removed by the non-Federal party prior to acceptance of title by the United States, unless the authorized officer and the non-Federal party to the exchange previously agree upon a specified period to remove the personal property. If the personal property is not removed prior to acceptance of title or within the otherwise prescribed time, it shall be deemed abandoned and shall become vested in the United States.

(iv) The exchange parties must reach agreement on the arrangements for the relocation of any tenants. Qualified tenants occupying non-Federal lands affected by a land exchange may be entitled to relocation benefits under 49 CFR 24.2. Unless otherwise provided by law or regulation (49 CFR 24.101(a)(1)), relocation benefits are not applicable to owner-occupants involved in exchanges with the United States provided the owner-occupants are notified in writing that the non-Federal lands

are being acquired by the United States on a voluntary basis.

(2) *Federal lands*. If Federal lands proposed for exchange are occupied under grant, permit, easement, or non-mineral lease by a third party who is not a party to the exchange, the third party holder of such authorization and the non-Federal party to the exchange may reach agreement as to the disposition of the existing use(s) authorized under the terms of the grant, permit, easement, or lease. The non-Federal exchange party shall submit documented proof of such agreement prior to issuance of a decision to approve the land exchange, as instructed by the authorized officer. If an agreement cannot be reached, the authorized officer shall consider other alternatives to accommodate the authorized use or shall determine whether there are specific and compelling reasons in the public interest for revoking the authorization for that use pursuant to 36 CFR 251.60.

[59 FR 10867, Mar. 8, 1994, as amended at 78 FR 33726, June 5, 2013]

§ 254.16 Case closing.

(a) *Title transfers*. Unless otherwise agreed, and notwithstanding the decision in *United States v. Schurz*, 102 U.S. 378 (1880), or any other law or ruling to the contrary, title to both the non-Federal and Federal lands pass simultaneously and are deemed accepted by the United States and the non-Federal landowner, respectively, when the documents of conveyance are recorded in the county clerk's or other local recorder's office. Before recordation, all instructions, requirements, and conditions set forth by the United States and the non-Federal landowner must be met. The minimum requirements and conditions necessary for recordation include the following, as appropriate:

(1) The determination by the authorized officer that the United States will receive possession, acceptable to it, of such lands;

(2) The issuance of title evidence as of the date of recordation which conforms to the instructions and requirements of the USDA Office of the General Counsel's preliminary title opinion; and

(3) Continuation searches disclosing no matters of record that would require any change in the aforementioned title evidence as issued.

(b) *Automatic segregation of lands.* Subject to valid existing rights, non-Federal lands acquired through exchange by the United States automatically are segregated from appropriation under the public land laws and mineral laws until midnight of the 90th day after acceptance of title by the United States, and the public land records must be noted accordingly. Thereafter, the lands will be open automatically to operation of the public land laws and mineral laws, except to the extent otherwise provided by law, unless action is taken pursuant to 43 CFR part 2300 to initiate a withdrawal within the 90-day period.

§ 254.17 Information requirements.

The requirements governing the preparation of an agreement to initiate in § 254.4 of this subpart and an exchange agreement in § 254.14 of this subpart constitute information requirements as defined by the Paperwork Reduction Act of 1980 (44 U.S.C. 3507) and have been approved for use pursuant to 5 CFR part 1320 and assigned OMB Control Number 0596-0105.

[59 FR 10867, Mar. 8, 1994; 59 FR 15501, Apr. 1, 1994]

Subpart B—National Forest Townsites

AUTHORITY: Pub. L. 85-569; 72 Stat. 438; 16 U.S.C. 478a, as amended by sec. 213, Pub. L. 94-579; 90 Stat. 2743.

SOURCE: 50 FR 29673, July 22, 1985, unless otherwise noted.

§ 254.20 Purpose and scope.

(a) A Forest Service official may, upon application, set aside and designate for townsite purposes up to 640 acres of National Forest System lands adjacent to or contiguous to an established community in Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

(b) National Forest System lands, needed by a community, may be sold under the Townsite Act, for fair mar-

ket value if those lands would serve indigenous community objectives that outweigh the public objectives and values of retaining the lands in Federal ownership. Indigenous community objectives may include space for housing and for service industries, expansion of existing economic enterprises, new industries utilizing local resources and skills, public schools, public health facilities, community parks, and other recreation areas for local citizens, but would exclude such uses as commercial enterprises or new industries and housing projects that would change the character of the local community.

§ 254.21 Applications.

(a) An application to purchase National Forest System lands—

(1) Must be made by designated officials) authorized to do business in the name of a county, city, or local governmental subdivision;

(2) May be in the form of a letter, ordinance, or resolution;

(3) Must be furnished to the District Ranger or the Forest Supervisor for the National Forest area in which the lands are situated; and

(4) Must be limited to 640 acres or less adjacent to an established community.

(b) An application must be accompanied by—

(1) A description of the land desired; and

(2) A development plan, consisting of a narrative statement and map, which gives a detailed description of the intended use of the site and how essential community needs will be met by the purchase.

§ 254.22 Designation and public notice.

(a) A Forest Service official must—

(1) Ensure the application meets the requirements of § 254.21;

(2) Process an order to set aside and designate the lands for townsite purposes; and

(3) Transmit, where applicable, a copy of the designation order to the State Director, Bureau of Land Management.

(b) The designation order will segregate the lands from other forms of entry as long as the application remains in force.